

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In Re:

Residential Capital, LLC, et. al.

Debtor(s)

APPLICATION FOR RELIEF FROM
THE AUTOMATIC STAY

Chapter 11

Bankruptcy Case: 12-12020

Hearing Date: 08/14/2012 @ 10:00 AM

Judge Martin Glenn

Application of HSBC Bank USA, NA (hereinafter also referred to as "HSBC") For Relief from the Automatic Stay under 11 U.S.C. UNDER §362(d) (and 11 USC §1301) With Respect to Property: 7631 Inverary Drive , Frankfort, IL 60423(the "Property")

HSBC Bank USA, NA, through its Counsel, Stern & Eisenberg PC, respectfully requests the Court grant its Application/Motion for Relief with regard to the Property and in support thereof respectfully represents as follows:

1. Movant is HSBC Bank USA, NA with a place of business located at 2929 Walden Avenue, Depew, NY 14043.
2. Borrower(s) are Kenneth L. Spriggs and Jennifer Spriggs (hereinafter "Debtor(s)"), adult individuals whose last-known address is 7631 Inverary Drive, Frankfort, IL 60423.
3. On 09/23/2004, Borrower(s) signed a note and mortgage in the principal sum of \$194,000.00, evidencing a loan from Ameriquest Mortgage Company in the same amount, secured by the Property, as evidenced by a mortgage duly recorded at the Recorder of Deeds for Will County on 10/07/2004 in Document No. R2004185298. A copy of the foreclosure complaint together with note and mortgage is attached as Exhibit "A" and hereby incorporated by reference.
4. By Assignment of Mortgage, the loan was ultimately assigned to HSBC Bank USA, NA.
5. Debtor, Residential Capital, LLC (et. al.) is the holder of a mortgage dated 4/25/2005 recorded on 6/24/2005 at document number R2005106266 in the amount of \$19,600.00 representing a second mortgage taken by Borrowers.
6. On December 9, 2009, HSBC Bank USA, NA, instituted foreclosure proceedings as set forth in Exhibit A. The foreclosure proceeded through judgment and to a scheduled sale.
7. Thereafter, as a result of the Debtor's bankruptcy, HSBC's sheriff sale scheduled for May 16, 2012 was stayed since Debtor holds a junior lien interest in the Property. A copy of the notice of sale is attached as Exhibit "B" and hereby incorporated by reference.

8. Debtor filed the instant Chapter 11 Bankruptcy on Monday, May 14, 2012 and as a result, any State Court proceedings were stayed.
9. It is believed and therefore averred that Debtor(s) filed the instant bankruptcy to address concerns other than the enforcement of HSBC's senior lien in the Property, notwithstanding, the automatic stay applies.
10. HSBC holds a judgment in the amount of \$237,905.56 together with other amounts it is allowed to collect.
11. In addition, HSBC Bank USA, NA has incurred counsel fees and costs in association with Debtor(s)' default and this motion for \$826.00 plus any additional fees incurred.
12. Debtor has not, to this date, taken any position with the foreclosure on the Property. Pursuant to the Borrower's Chapter 7, the Property value is \$209,000.00. A copy of schedule A is attached as Exhibit "C".
13. A copy of the proposed Order seeking relief is attached as Exhibit "D" and hereby incorporated by reference.
14. No such prior application has been made.
15. Movant requests that the stay of Bankruptcy Rule 4001 (a)(3) and the requirements of Rule 3002.1 be waived.

WHEREFORE, Movant, HSBC Bank USA, NA respectfully requests this Court to grant the appropriate relief under 11 U.S.C. §362 (and 11 USC §1301) from the automatic stay as set forth in the proposed order together with such other relief as deemed just and appropriate.

Respectfully submitted,

STERN & EISENBERG, PC

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DATE: 09/17/2012